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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/777,045      | 02/05/2001  | Douglas J. Pogatz    | 8773/113            | 8697             |

7590

03/31/2003

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| EXAMINER |
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WOOD, KIMBERLY T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3632

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/777,045

Applicant(s)

POGATETZ ET AL.

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 22-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-17 and 33 is/are rejected.
- 7) ☒ Claim(s) 13 and 18-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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This is the first office action for serial number 09/777,045, entitled Bracket Apparatus And Method For Mounting A Personal Computing Appliance To A Wall, filed on February 2, 2001.

***Election/Restriction***

Claims 22-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 6. Claims 28-32 were withdrawn in paper no. 4.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1, 2, 6-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al. (Arnold) 5,141,196. Arnold discloses a bracket comprising a wall mounting portion (17), a

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personal computing appliance mounting portion (12) angled to the wall mounting portion (via notches 23 varying the angle (20 degrees)), a plurality of mounting pads ("29" each pad contacts a top or upper section of the appliance on either side and the bottom or lower surface on either side), first and second flange members (the planar members 19 to the left and right of the opening 25) having at least one through opening including two openings (37 and since it is a key-shaped slot opening it has one opening of a first diameter and a second opening of a second diameter).

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Wisniewski 6,382,580. Wisniewski discloses a bracket comprising a wall mounting portion (44a and 24), a personal computing appliance mounting portion (48) having two planar flanges (see figures 2 and 3 near element 44a) and two openings for each flange (44a), a plurality of mounting pads (4 mounting pads elements 36) having a concave body portion (where the pads are curved). The mounting pads can contact the sides of a computer on upper and lower portions.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-7, 14-17, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank et al. (Frank) 5,177,665 in view of Chang. Frank discloses a bracket apparatus comprising a bracket including a wall mounting portion (14) comprising first and second planar flanges, a personal computing appliance mounting portion (10) having two planar flanges, a keyboard holder (8) being rotatably attached by a first rod member (12 pins are rods). Frank discloses all of the limitations of the claimed invention except for the mounting pads. Chang teaches that it is known to have an appliance mounting portion (16) and a keyboard mounting portion (14) comprising mounting pads in each portion (58). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Frank to have included the mounting pads to the corners of the appliance mounting portion and keyboard holder to enable a firm pressure-resistant retention of the computer as it is inserted into the mounting portion and the holder.

#### ***Allowable Subject Matter***

Claims 13 and 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner

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can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for an Official Amendment or Response is (703) 872-9326. The fax number for an Official After Final Amendment or Response is (703) 872-9327.

Kimberly Wood  
Primary Examiner  
March 21, 2003



KIMBERLY WOOD  
PRIMARY EXAMINER